

YOUTH SERVICES POLICY

Title: Prison Rape Elimination Act (PREA) Next Annual Review Date: 07/13/2010	Type: C. Field Operations Sub Type: 2. Security Number: C.2.11
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References: ACA Standards 4-JCF-3D-01, 4-JCF-3D-02, 4-JCF-3D-03, 4-JCF-3D-04, 4-JCF-3D-05, 4-JCF-3D-06, 4-JCF-3D-07, 4-JCF-3D-08, 4-JCF-3D-09 (Performance-Based Standards for Juvenile Correctional Facilities), 2-7133-1 (Standards for Juvenile Probation and Aftercare Services); YS Policies A.1.4 "Investigative Services", C.1.3 "Crimes Committed on the Grounds of YS Facilities/Office Buildings and/or Properties", and C.4.3 "Mandatory Reporting of Abuse and Neglect of Youth", C.5.2 "Duty Officers and Reporting of Serious Incidents"; DYS Policy 10.29 "Reporting Child Abuse and Maltreatment of Juveniles"	
STATUS: Approved	
Approved By: Mary L. Livers, Deputy Secretary	Date of Approval: 07/13/2009

I. AUTHORITY:

Deputy Secretary of Youth Services as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish procedures for implementing the Prison Rape Elimination Act within Youth Services (YS).

III. APPLICABILITY:

All YS staff and youth, contract service providers, and volunteers.

IV. DEFINITIONS:

Abusive Sexual Contacts - Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

Contract Facilities - For purposes of this policy, Contract Facilities are non-secure residential facilities that are contracted by YS to house and provide care and treatment to youth who are in the custody or under the supervision of YS.

Multidisciplinary Team (MDT) - A group of persons responsible for developing comprehensive case plans for youth.

Nonconsensual Sexual Acts (Rape) - Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and 1) Contact between the penis and the vagina or the penis and the anus including penetration, however slight; or 2) Contact between the mouth and the penis, vagina, or anus; or 3) Penetration of the anal or genital opening of another person by hand, finger, or other object.

Operations Group - An administrative group that provides oversight to agency operations. Membership includes the Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Undersecretary, Deputy Assistant Secretaries, Program Manager for Treatment Services, Family and Community Liaison, Director of Education, Counsel, and other persons as requested by the group. This group makes recommendations to the Deputy Secretary of YS.

PREA Committee - A committee of executive and senior management appointed by the Deputy Secretary to meet quarterly to discuss PREA related issues and incidents, initiating organizational improvement as necessary.

Prison Rape Elimination Act (PREA) - An Act signed into law by President George W. Bush in September 2003. This legislation requires the Bureau of Justice Statistics (BJS) to develop new national data collections on the incidence and prevalence of sexual violence within correctional facilities. PREA defines four categories of sexual abuse for purposes of data collection: abusive sexual contacts, nonconsensual sexual acts, staff sexual harassment and staff sexual misconduct.

SART - Sexual Assault Response Team.

Sexual Assault - Includes all acts of a sexual nature that constitute Nonconsensual Sexual Acts and Abusive Sexual Contacts. Sexual assault also includes sexual coercion and sexual solicitation as defined in this policy.

Sexual Assault Liaison - A management staff designated by the Facility Director or Contract Provider to coordinate response, reporting, monitoring and follow-up to incidents of youth sexual assault within that facility. The Sexual Assault Liaison will be assigned as the Sexual Assault Response Team Leader at that location.

Sexual Coercion - The use of debt, threats of physical harm, peer pressure, deceit, personal favors, or positional authority to force or lure sexual favors from a person including sexual fondling, oral sex, and sexual intercourse.

Sexual Solicitation - The solicitation of sexual favors from any person committed to the care and custody of YS or any YS staff member.

Sexual Victim - Any youth, who through documented evidence, has suffered sexual coercion, sexual solicitation or sexual assault by another youth or a staff member during the immediate incarceration.

Sexually Aggressive Youth - A youth with a case history of committing sexual assault, or coercing sex in exchange for protection or other favors within the secure care setting.

Staff - For purposes of this policy, staff includes YS employees, contract service providers, and volunteers.

Staff Sexual Harassment - Repeated verbal statements or comments of a sexual nature to youth by staff, volunteers, visitors, or agency representatives, including: 1) demeaning references to gender or derogatory comments about body or clothing, or 2) profane or obscene language or gestures.

Staff Sexual Misconduct - Any behavior or act of a sexual nature directed toward youth by staff, volunteers, visitors, or agency representatives. Romantic relationships between staff and youth are included as misconduct. Consensual or nonconsensual sexual acts include: 1) Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; or 2) completed, attempted, threatened, or requested sexual acts; or 3) occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

Vulnerable Youth - A youth who is at high risk to become a victim of sexual assault by another youth due to characteristics related to age, physical stature, criminal history, and physical or mental disabilities, or past history of being victimized.

Youth/Juvenile - Any person under the jurisdiction of the Louisiana Department of Public Safety and Corrections, Youth Services, regardless of age or reason for placement.

Youth-On-Youth Sexual Violence - All substantiated occurrences of nonconsensual sexual acts and abusive sexual contacts at any secure care facility.

V. POLICY:

Youth Services is committed to a zero-tolerance standard for sexual assault. The purpose of this policy is to prescribe how the Prison Rape Elimination Act shall be implemented within YS. This policy provides uniform guidelines and procedures to reduce the risk of sexual assault and sexual activity within both YS secure care and contracted facilities.

VI. GENERAL STANDARDS:

- A. Youth Services will aggressively respond to, investigate, and support the prosecution of sexual misconduct in secure care and contracted facilities, both internally and externally in partnership with law enforcement and the courts.
- B. Through continual education of staff and youth, YS will increase awareness of safe reporting mechanisms and available services to victims; thereby, creating facility cultures that discourage sexual aggression and misconduct.
- C. Through assessment, room assignment, and improvements to facility architecture, where feasible, YS will identify opportunities to separate and carefully monitor both sexually aggressive and vulnerable youth to reduce the incidence of sexual misconduct.
- D. YS will establish data collection systems to accurately track sexual misconduct and annually incorporate 'lessons learned' into improved operations and services toward a sustainable zero-tolerance standard through the PREA Committee. Contract Facilities shall be required to report PREA data in their annual report.

VII. YOUTH EDUCATION:

- A. Upon admission to a secure care or contracted facility, youth shall receive written information about:
 - 1. How to avoid risky situations related to sexual assault;
 - 2. How to safely report rape or sexual activity;
 - 3. How to obtain counseling services and/or medical assistance if victimized; and
 - 4. What the risks and potential consequences are for engaging in any type of sexual activity while in the facility.

- B. As part of the orientation/intake process, staff shall show a video or power point presentation to all youth covering the same issues listed in section A. above. Additionally, staff shall process with youth the information that was provided in the video/power point. For contract facilities, Probation and Parole staff shall ensure that the youth signs a Confirmation of Receipt [Attachment C.2.11 (a)]. This Confirmation of Receipt shall be placed in the youth's case record maintained in the local Regional Office.
- C. A brief version of the same presentation described in section B. above shall be made to youth during the admission and orientation process of each facility whenever a youth is transferred.

VIII. ASSESSMENT AND HOUSING:

- A. Facility Directors and Contract Providers shall provide safe housing assignments for every youth in order to reduce the likelihood of sexual assault while the youth is in YS custody.
- B. Facility Directors and Contract Providers shall consider vulnerability of all youth at the time of admission and prior to living area assignment, thereby reducing the risk of sexual assault against those youth who are most at risk or by those youth most likely to perpetrate such a crime.

1. Vulnerable Youth

Upon intake, staff shall evaluate all youth specifically to determine their vulnerability to sexual assault as indicated by the following risk factors:

- a. Age;
- b. Physical stature;
- c. Developmental disability;
- d. Mental illness;
- e. Sex offender status, (per criminal history);
- f. First time offender status, (first time in custody); and
- g. Past history of victimization.

2. Sexually Aggressive Youth

Upon intake, staff shall evaluate all youth specifically to determine if there are indications that a youth is prone to victimize other youth, especially in regard to sexual behavior, including the following:

- a. History of sexually aggressive behavior;
- b. History of violence, especially if related to a sex offense with same gender victim; and
- c. Anti-social attitudes indicative of sexually aggressive behavior.

IX. SECURE CARE AND CONTRACT FACILITIES RESPONSIBILITIES:

- A. All staff shall be trained on how to recognize the signs of sexual assault and understand their responsibility in the detection, prevention, and reporting of an alleged sexual assault, staff sexual harassment, abusive sexual contact, nonconsensual sexual acts, and staff sexual misconduct.
- B. Professionally trained staff will help prevent sexual assaults by acting in the following manner during the performance of their duties:
 - 1. Know and enforce rules/policy/procedures regarding sexual conduct of youth.
 - 2. Maintain professionalism at all times.
 - 3. Treat any allegation of sexual assault seriously and follow appropriate reporting procedures.
- C. Staff must recognize that sexual assaults can occur in virtually any area in a secure care facility. Sound practice includes conducting frequent, random area checks, providing direct staff supervision whenever possible, and maintaining an open line of communication with youth.
- D. Staff must be aware of warning signs that might indicate that a youth has been sexually assaulted or is in fear of being sexually assaulted. Warning signs include, but are not limited to: isolation, depression, lashing out at others, refusing to shower, suicidal thoughts or actions, seeking protection, and refusing to leave isolation/time-out rooms.
- E. Staff must be aware of potential sexually aggressive behavior. Characteristics or warning signs may include a prior history of committing sex offenses, use of strong arm tactics (extortion), associating or pairing up with youth who meet the profile of a potential victim, exhibiting voyeuristic/exhibitionistic behavior and demonstrated inability to control anger.

X. STAFF DEVELOPMENT:

- A. All staff shall receive instruction related to the prevention, detection, reporting and investigation of youth sexual assault during new employee orientation.
- B. All staff shall receive training on preventing youth sexual assaults during annual in-service.
- C. The Central Office Director of Staff Development shall be responsible for the development and dissemination of lesson plans for new employee orientation and in-service training.
- D. The Deputy Assistant Secretaries for Facilities and Community Services shall be responsible for implementing training in the secure facilities and in contract facilities, respectively.

Each employee shall be required to sign a copy of Attachment C.2.11 (b) "Staff Confirmation of Receipt". Signed receipts shall be forwarded to Central Office Human Resources for filing in the employee's personnel file.

XI. CONFIDENTIALITY, REPORTING, PROTECTION:

- A. Reporting
 - 1. Access to services for the victim of sexual assault, sexual solicitation, and sexual coercion shall not be dependent on the victim's willingness to report or provide testimony. In large measure; however, reporting of sexual assault, sexual solicitation, and sexual coercion by youth is critical to the timely delivery of necessary services to the victim and to holding perpetrators accountable and less likely to re-offend.
 - 2. Staff shall encourage youth to report when either of the following conditions exists:
 - a. The youth has been or is currently a victim of sexual assault, sexual solicitation, or sexual coercion while in a YS secure facility and/or contract facility.
 - b. The youth has knowledge of sexual assault, sexual solicitation, or sexual coercion having occurred or occurring in a YS secure facility and/or contract facility.

3. When a youth reports sexual assault, sexual solicitation, or sexual coercion to staff, staff shall, except as noted elsewhere in this policy, contact his/her Supervisor/Manager, and in the case of contract facilities, the supervising Probation and Parole Officer. The Supervisor/Manager and/or Supervising Probation and Parole Officer shall initiate action, as appropriate and detailed in this rule, to reduce/eliminate:
 - a. Immediate harm to the victim or reporter; or
 - b. Damage to potential crime scenes or evidence.
4. Secure facility staff shall initiate an Unusual Occurrence Report [C.2.6 (b)] in accordance with YS Policy C.2.6 and facility Standard Operating Procedures, and notify Investigative Services/law enforcement in accordance with local procedures. Also, in accordance with YS Policy C.4.3, a "Notification and Report of Abuse/Neglect Occurrences" [C.4.3 (b)] shall be filed with the local office of the Child Protection Unit, Department of Social Services (DSS). Per DYS Policy 10.29, the supervising Regional Office shall notify the parish Office of Children's Services of the incident(s).

B. Confidentiality

1. Youth who report information to staff that they have themselves been or have knowledge of another youth who has been sexually assaulted, sexually solicited, or sexually coerced, do so with the understanding that the Youth Services and/or Contract Facilities will contact law enforcement in such cases.
2. All information provided by youth to staff shall be subject to verification by investigators and/or law enforcement. Information provided in confidential communications to staff shall be shared consistent with and in accordance to the standards required by state statute, professional licensure, and ethical standards.
3. When interviewing youth concerning sexual assault, sexual solicitation, and sexual coercion, Investigative staff shall inform youth of any limits to confidentiality prior to conducting the interview.
4. Under no circumstances should access to treatment resources be denied to a youth victim solely because the youth will not fully disclose details to investigating staff and/or law enforcement.

C. Protection of Youth Victims and Reporters

Youth Services and Contract Providers shall, to the degree possible within limited resources and applicable laws, protect youth victims and reporters of sexual assault, sexual solicitation, and sexual coercion from retribution from the perpetrator or others, commencing from when the allegation is made until such time as the threat has passed.

XII. REPORTING INCIDENTS OF SEXUAL ASSAULT:

A. Youth shall be encouraged to immediately report sexual assault to any staff member. Upon notification by a youth that he/she has been sexually assaulted or coerced into sexual contact, the staff shall immediately:

1. Ensure the youth victim is safe and kept separated from the offending aggressor;
2. Notify his/her Supervisor/Manager and/or Supervising Probation and Parole Officer.
3. Ensure the youth victim does not shower, eat, or drink until after evidence collection;
4. Secure the incident area and treat it as a crime scene in accordance with YS Policy A.1.4 "Investigative Services" and facility Standard Operating Procedures (Preserving Chain of Evidence) until released;
5. Notify/access appropriate health services of the sexual assault (health services staff will provide appropriate treatment without compromising evidence);
6. Immediately notify Investigative Services and/or law enforcement.

B. The Supervisor/Manager shall notify and brief the Facility Director. The Supervising Probation and Parole Officer shall notify and brief the Regional Manager. Notification shall also be made to the Central Office Duty Officer and Deputy Secretary in accordance with YS Policy C.5.2.

XIII. VICTIM SERVICES:

Access to medical and mental health services for victims of sexual assault shall be handled in accordance with DPS&C/LSUHSC JCP policies or Standard Operating Procedures.

Youth Services and contractors in the community shall implement protocol for immediate and on-going victim services in response to allegations of sexual abuse. Protocol shall include a Sexual Assault Response Team (SART) within the secure facilities or through a community provider to ensure comprehensive and immediate response to the needs of an alleged victim. The team shall meet within 72 hours of an alleged sexual assault of a youth.

The SART shall be composed of one person from each of the following disciplines: Medical, Mental Health, Investigations, and Administration or Direct Care staff at the facility where the youth is housed. If the youth is in the community, the Regional Manager or the youth's Probation and Parole Officer should be a member. One of the representatives shall be someone with whom the youth feels comfortable.

It is the responsibility of the team to discuss the needs and welfare of the victim and make recommendations concerning his/her safety as well as the medical and mental health needs or concerns and follow-up needed in these areas. Responsibilities of the team also include making recommendations concerning the perpetrator and other involved youth. The recommendations shall be forwarded to the Facility Director. The SART team shall meet regularly to review overall team response and review areas of possible improvement including suggested revisions in policy and protocol. Members of this team shall receive special training in regard to victim response.

Any youth involved in an incident that falls under the definition of PREA shall have an alert placed in his/her JETS record to ensure proper placement of the youth and therapy as needed.

XIV. DATA COLLECTION AND COMPILATION:

- A. YS shall collect information related to the purposes outlined at the beginning of this policy; specifically to gather data that will help reduce the risk that sexual assault and/or sexual activity would occur within YS secure and contract facilities.
- B. YS shall identify the specific data that must be collected to comply with the reporting requirements of the U.S. Department of Justice survey on sexual violence and the PREA Commission Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Juvenile Facilities.

- C. This data shall be compiled by Investigative Services into monthly and annual reports for submission to the Deputy Secretary. The purpose of these reports is to:
1. Establish a baseline of data documenting the prevalence of incidents involving sexual assault and sexual activity, as gleaned from all available sources; including Misconduct Reports, and Unusual Occurrence Reports.
 2. Provide information to the PREA Committee concerning where efforts are needed for the improvement of facility operations related to the reduction of sexual assault and sexual activity.
 3. Document that there is accountability for those who perpetrate sexual assault or sexual activity by tracking:
 - a. The adjudication of Misconduct Reports related to sexual assault and sexual activity, including the disposition of each case.
 - b. The status of investigations conducted by the Investigative Services Unit concerning suspected incidents of sexual assault and/or sexual activity.
 - c. Referrals of sexual assault or sexual activity cases for prosecution, including the status and outcome of such efforts within the judicial system.
 - d. Document that victims of sexual assault receive appropriate follow-up care as outlined in this policy.
 - e. Document action by facility/contract facilities Multidisciplinary Team (MDT) concerning the case management of youth designated as sexually aggressive or vulnerable.
 - f. Compile information collected directly from the youth population by means of various survey methods, which relates to the prevalence of sexual assault and/or sexual activity within the facilities, including the circumstances that contribute to this kind of behavior, in order to provide insight into potential strategies for its reduction or elimination.

XV. INVESTIGATING COMPLAINTS OF SEXUAL ACTIVITY:

- A. All allegations of sexual activity shall be reported immediately to Central Office Investigative Services staff, who will conduct all investigations into those allegations following the protocol described in the Investigative Services Handbook.
- B. Investigative Services investigators are members of the Sexual Assault Response Team and as such shall ensure the victims receive medical and support service.
- C. All PREA investigations that result in a finding of criminal activity shall be referred to the District Attorney for prosecution.

XVI. DATA REVIEW:

The PREA Committee shall schedule a yearly conference of members of the Operations Group to review the data that has been collected pursuant to this policy; to make recommendations regarding needed changes to this policy; and to make recommendations to the Deputy Secretary regarding any changes needed in facility operations and/or the SOP for contract facilities. This does not preclude, however, any member of the Operations Group from calling for a conference at any time to make recommendations regarding changes to this policy, operational changes at YS secure facilities, and the SOPs for contract facilities.

Previous Regulation/Policy Number: N/A

Previous Effective Date: N/A



Attachments/References: C.2.11 (a) Youth Confirmation of Receipt PREA 10-09.doc



C.2.11 (b) Staff Confirmation of Receipt PREA 10-09.doc